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Wednesday, March 18, 2015

Too [PHCTestimony@cga.ct.gov](mailto:PHCTestimony@cga.ct.gov)

Hearing Room 1-D of the LOB.10:30am

**Support of RB NO. 1088\_\_\_\_\_**

**AND\_\_\_\_\_**

Good day my name is Henry J Martocchio I am in support of SP 1088...and All  
ADA rights to Have!

**This is a ADA OBJECTION / PROTEST COMPLAINT**

**Demands for REMEDIES /on / or**

**About ADA All ADA Program Manager's & State of Conn Judicial Branch  
and All State Departments of Conn that Services the Public.**

**PLEASE look to the 1991 Regs coupled with the TAM for their  
preamble as best explanation of "Public Entities" "\*\*\*\*Responsibilities\*\*\*\*"!!!  
From that, you can best tell if the Conn" was, is, will be tomorrow",  
compliant to Title II of the ADA and for subcontractors of state they hold  
not only Title II but also Title III obligations'.**

**Please understand and Request For debating me if you wish or need  
or as you must, but if Conn is "non compliant" similar too, than you Donna  
the Jane and John, Doe's citizens AND "you" JANE and JOHN "Donna"**

**DOE's and "professional, attorneys" as to the LOB,, have the 2 (two) separate equal and the same "complaint/testimonials.**

**No administrative compliance = no ADA compliance = all persons and attorneys have been, are, and will continue to be excluded from participation, denied the benefits of services programs activities of Conn, and discriminated against by reason of disability by the public entity known as the Conn services to the Public.**

**Including but not limiting to the following:**

**Violation and non-compliance of Settlement Agreement between the United States Department of Justice and the Connecticut Judicial Branch, November 2003 and;**

**Violations and non-compliance of Settlement Agreement in Raymond v. Rowland Civil Action NO. 3:03CV0118 (MRK) May 31, 2007 ( Only 1 Conn. Administration)All of State Actors & Players and State Contractors whom with invidious animus intent, effect or both of**

1. Denial of 28 CFR 35.107 - Designation of responsible employee
2. Designation of responsible employee. A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.
3. Denial of an ADA title II and III adoption of grievance procedures. AS today the only thing you have is a Title I grievance procedures.. We the People use your services reject as we are not employee of the state of Conn. So stop Applying Title I to the public.

4. Denying qualified individuals the opportunity to participate in or benefit from **federally funded programs**, services, or other benefits.
5. Denying individuals with disabilities an equal opportunity to receive State program benefits and services.
6. Denying access to programs, services, benefits or opportunities to participate as a result of physical barriers.
7. Denying employment opportunities, including hiring, promotion, training, and fringe benefits, for which they are otherwise entitled or qualified....
8. Denying the disable State of Conn. ADA Administrative Procedures for the enforcement of ADA title II and title III.
9. Denying Path for internal or external ADA Administrative hearings.
10. Denying the disable State of Conn. Policies, Procedures, grievances' and Notice of Safe Guards for the ADA of title II and title III.
11. Denying of compliance reviews of public entities under title II and title III of the ADA.
12. Denying the Civil Rights of the disable to have Association Rights with Persons with Out an Disabilities
13. Over All Denying the disabled rights for and to have modification without Applying the Denial to that persons Disability requesting.

14. Failure to develop a list of modification for a disable to review and can “pick” what “best ensures” modification will work “Best” for their “Needs” to ensure effective communication with all.
15. Failure to put in place a path for the disabled to refuses your modifications and allowing the disabled to show or get a better medication that works Best for their Disability’s.
16. Willingly Excluding disabled by the effect/No effect of not recognizing the disabled needs or because of their known relationship or association with other persons.
17. No promoting of the overall effectiveness of its Enforcement Program.
18. No Fourteenth Amendment Civil Rights in Case of the disable in Sate of Conn Courts.
19. Failure to comply with the nondiscrimination Requirements.
20. Failure to create a Non-Discrimination Policy Statement for services of the judicial branch (State Actors) and of the Legislator and Will Of
21. Failure to create a Non-Discrimination Policy Statement for your Vendors (state players)
22. Failure to create a Non-Discrimination Policy Statement for your Sub-contractors (state players)
23. Failure to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; By state actor or Players

24. Failure to make the authority to conduct compliance reviews consistent with that available under section 504 and title VI. See, e.g., 28 CFR 42.107(a).
25. Failure of 28 CFR 42.107 “(b) The designated agency may conduct compliance reviews of public entities in order to ascertain whether there has been a failure to comply with the nondiscrimination requirements of this part.”
26. Failure to providing services to qualified individuals with disabilities in community-based settings, as long as such services are appropriate to the needs of those individuals. These agencies should provide technical guidance and work cooperatively with States to achieve the goals of Title II of the ADA [42 U.S.C. 12131 et seq.]
27. Failure to comply with the ADA’s integration requirement, a state must reasonably modify its policies, procedures, or practices when necessary to avoid discrimination. 28 C.F.R. § 35.130(b)(7).

Please refer your self to the ADA Regulations (<http://www.ada.gov>) and the ADA Technical Assistance Manual(<http://www.ada.gov/ta-pubs-pg2.htm> )

In particular to begin with, the TAM section (Title II Technical Assistance Manual)

The Americans with Disabilities Act

Title II Technical Assistance Manual

Covering State and Local Government Programs and Services

<http://www.ada.gov/taman2.html>

and "Administrative Responsibilities" and the same in the Reg's

[II-8.0000 ADMINISTRATIVE REQUIREMENTS](#)

[II-8.1000 General.](#)

[II-8.2000 Self-evaluation.](#)

[II-8.3000 Transition plan.](#)

[II-8.4000 Notice to the public.](#)

[II-8.5000 Designation of responsible employee and development of grievance procedures.](#)

Good day my name is Henry J Martocchio I am in support of SP 1088...and All ADA rights to Have!

Today I am here to testify in regards to discrimination in the ongoing concerns I have for every disabled person in the State of Connecticut. You ask yourself,, how it is, he can sit here and with claims That the State of Connecticut is Discriminating?? **Real simple noncompliance of the American disabilities act..**

No matter how much money you may spend or not spend the facts are, we do not have! A desinated responsible person 28 CFR 35.107. The state as set minimum obligations Of the ADA Title II and title III of the American disabilities act and the department Of Justice has giving guidelines to the states and This state has entered into a settlement agreement in 2007 called Raymond V. Roland of 2007.

Yet today after agreeing to this settlement agreement, we still don't even have the basic 14th Due process rights for the disabled to have a procedural safeguard. A voice With/For the legislative building a person to ensure that no departmental agencies Can or Will discriminate with non-discriminatory policies and procedures, let alone everyone here thinks they have **sovereign immunity**.  
**Wrong**

**Congress has the power under Section 5 of the Fourteenth Amendment to abrogate the States' sovereign immunity in cases**

implicating the fundamental right of access with effective communications with all.

Since passage of the ADA, advocacy efforts of the disability rights movement have continue to focus on rigorous enforcement of the ADA, as well as accessibility for people with disabilities in employment, technology, education, housing, transportation, healthcare, and independent living for people with disabilities.

Key disability rights legislation and policies since the ADA include:

Congress amended the ADA in 2008 to restore the civil rights of Americans with disabilities and overturn four Supreme Court decisions that had inappropriately narrowed the protections of the ADA. The Americans with Disabilities Act Amendments Act, signed by President Bush on September 25, 2008, emphasizes that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the ADA and generally shall not require extensive analysis.

On October 8, 2010 President Obama signed into law the 21st Century Communications and Video Accessibility Act (CVAA) to update the Communications Act and expand safeguards and accessibility in communications for people with disabilities. The CVAA resulted from advocacy efforts of AAPD and other leading disability organizations such as National Association of the Deaf, American Council of the Blind, Communication Services for the Deaf, Hearing Loss Association of America, American Foundation for the Blind, and others.

**The Patient Protection and Affordable Care Act (ACA) enacted in March 2010** is the health care reform law that makes major changes to current health care and insurance and includes many provisions that will affect people with disabilities. It addresses accessibility and nondiscrimination, affordability, coverage, home and community-based services, equipment, training and data collection and Medicaid.

**In December of 2011, President Obama** and the U.S. Labor Department issued a proposed rule that would require federal contractors to set goals that 7% of their work forces be individuals with disabilities. The Proposed rule would implement Section 503 of the Rehabilitation Act of 1973, which requires federal contractors to promote employment opportunity for people with disabilities. Although Section 503 was enacted almost 40 years ago, it has never been enforced or clarified to the extent necessary, requiring employers only to make a “good faith” effort to hire people with disabilities

**In December of 2006 Disability rights have also made important advances in the international sphere, where they are now considered human rights. In December of 2006 the United Nations General Assembly passed the Convention on the Rights of Persons with Disabilities (CRPD), which came into force on May 3, 2008. The CRPD is one of the nine human rights treaties of the United Nations and signifies a change in the perception of people with disabilities as objects of charity and protection to individuals who have rights that must be respected and guaranteed by states is much to be done to ensure the economic and political empowerment and independent living of people with disabilities.**

[Convention on the Rights of Persons with Disabilities](http://www.un.org/disabilities/convention/conventionfull.shtml)

[www.un.org/disabilities/convention/conventionfull.shtml](http://www.un.org/disabilities/convention/conventionfull.shtml)[Cached](#)

Convention on the rights of persons with disabilities ... Convention on the Rights of Persons with Disabilities Preamble. The States Parties to the present Convention,

### **FAILURE TO PROTECT BASICS CONSTITUTIONAL LAW 42 U.S.C. 1983**

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." 42 U.S.C. 1983 (1988) (emphasis added).

This statute, enacted in 1871, was designed to create a private, civil cause of action for those persons whose constitutional rights are violated by state actors. In order to state a 1983 claim, a plaintiff must point to a specific right granted by the Constitution or state laws.

A defendant may escape 1983 liability under the principle of qualified immunity, which shields state actors from civil liability unless their actions violated "clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818.

This following section is directly quoted from Susanne M. Browne, "Note: Due Process and Equal Protection Challenges to the Inadequate Response of the Police in Domestic Violence Situations," 68 S. Cal. L. Rec. 1295 (1995).

### **Due Process Clause**

The Due Process Clause of the Fourteenth Amendment states: "[n]o state shall . . . deprive any person of life, liberty, or property, without due process of law."

## **Equal Protection Clause**

The Equal Protection Clause of the Fourteenth Amendment states that "[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

**Henry J. Martocchio Pro Se / with All Disabled People of Conn. Asking for a path of remedy**

See Attachments

**Re: Investigation of the Massachusetts Department of Children and Families by the United States Departments of Justice and Health and Human Services Pursuant to the Americans with Disabilities Act and the Rehabilitation Act (DJ No. 204-36-216 and HHS No. 14-182176)**

January 29, 2015

Erin Deveney  
Interim Commissioner  
Department of Children and Families  
Executive Office of Health and Human Services  
Commonwealth of Massachusetts  
600 Washington Street  
Boston, Massachusetts 02111

**Re: Investigation of the Massachusetts Department of Children and Families by the United States Departments of Justice and Health and Human Services Pursuant to the Americans with Disabilities Act and the Rehabilitation Act (DJ No. 204-36-216 and HHS No. 14-182176)**

Dear Commissioner Deveney:

We write concerning the investigation of the Massachusetts Department of Children and Families (DCF) by the United States Departments of Justice and Health and Human Services (collectively, Departments) pursuant to Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, and Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794.

Title II and Section 504 prohibit disability-based discrimination by DCF, including the denial of opportunities to benefit from services, the failure to reasonably modify policies and procedures, and imposing methods of administration that have the effect of

discriminating on the basis of disability.<sup>1</sup> The Departments' investigation has revealed that DCF has committed extensive, ongoing violations of Title II and Section 504 by discriminating against Sara Gordon

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<sup>1</sup> Title II applies to public entities, which include state and local governments, and their departments and agencies, such as DCF. 42 U.S.C. § 12131(1). Section 504 applies to the programs and activities of recipients of federal financial assistance. 29 U.S.C. § 794(b)(1)(A), (B). DCF operates child welfare programs and activities and receives financial assistance from the Administration for Children and Families, U.S. Department of Health and Human Services.

[http://www.ada.gov/williams\\_new-york\\_soi.docx](http://www.ada.gov/williams_new-york_soi.docx)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:
DIANA WILLIAMS,	:
	:
Plaintiff,	:
	:
- against -	:
	:
THE CITY OF NEW YORK,	:
	:
Defendant.	:
	:
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***Substitute House Bill No.***

***Special Act No.***

***AN ACT ESTABLISHING A TASK FORCE TO STUDY Federal Law of (ADAAA 2008) under Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, and the United States Department of Justice implementing regulation, 28 C.F.R. Part 35.***

*Disability Discrimination is under the protection of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, and the United States Department of Justice regulation, 28 C.F.R. Part 42, Subpart G and Individuals with Disabilities Act of 2004..*

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**Be it enacted by the Senate and House of Representatives in General Assembly convened:**

**Section 1.** (*Effective from passage*) **(a)** There is established a task force to study (1) the Compliancy of the State of CT and Town, and services for/too the Disability with focus on

Ensuring a Compliancy ADA Title I title II and III and remembers funding from federal funds and "In light of recent USDOJ Settlement agreement such as the Quinnipiac College, DDS, DSS, and Judicial Branch, Verses town and State business and/or vendors of within. All needing General updated as to ADA Administrative Procedures for the enforcement of ADA Title I, title II and title III.

**(2)** The extent of noncompliance with the provisions of subdivision:

**Congress** Found In its analysis, the district court also looked to the ADA's legislative history and the Department of Justice's regulations and Technical Assistance Manual, all of which support the court's interpretation of the plain language of the statute. With respect to **Title II of the ADA, the House Committee on Education and Labor stated:** The Committee has chosen not to list all the types of actions that are included within the term "discrimination", as was done in titles I and III, because this title essentially simply extends the anti-discrimination prohibition embodied in section 504 to all actions of state and local governments. **Title II of the bill makes all activities of State and local governments subject to the types of prohibitions against discrimination against a qualified individual with a disability included in section 504 (nondiscrimination).**H.R.Rep. No. 101-485(II), at 84, 151 (1990), reprinted in 1990 U.S.C.C.A.N. 303, 367, 434 (emphasis added). As the preamble to the Department of Justice regulations explains, "[T]itle II applies to anything a public entity does. All governmental activities of public entities are covered." 28 C.F.R. pt. 35, app. A at 456 (1996). The Department of Justice's Technical Assistance Manual, which interprets its regulations, specifically refers to zoning as an example of a public entity's obligation to modify its policies, practices, and procedures to avoid discrimination.<sup>8</sup> **The Americans with Disabilities Act: Title II Technical Assistance Manual § II-3.6100, illus. 1 (1993) ("TA Manual"). - See more at:**  
**<http://caselaw.findlaw.com/us-2ndcircuit/1057881.html#sthash.4j8EtLV.dpuf>**

**Under title 7 U.S. Code, Chapter 51, Section 2011. Congressional declaration of policy.**

Section 504, protects qualified individuals like the Appellant with his disabilities, under Section 504 persons with disabilities that affect major life activities are caring for one's self, walking, seeing, hearing, speaking working.

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Rehabilitation Services: title 29 U.S. Code, Chapter 16, General Provisions  
Section 701, Finding; Purpose; reads;

"(a)(1) Millions of Americans have one or more physical disabilities with disabilities increasing."

"(2) Individuals with disabilities constitute one of the disadvantaged groups in society."

"(a)(6) The goals of the Nation properly include the goal of providing individuals with the tools necessary to-

(B) Achieve equality of opportunity, full inclusion and integration in society, employment, independency living, and economic and social self-sufficiency, for such individuals."

The United States Supreme Court interpretation of **504 Rehabilitation Act in Alexandra v. Choate, 469 U.S. 287 301-02 (1985)** the Court concluded that Congress intended to protect disabled persons from discrimination from thoughtlessness.

## **(2(a))**

Committee charges will ensure the Conn general statutes, state Policy and the role of the court in enforcing compliance with said subdivision, and (3) whether the state

Should adopt new laws and Regulations to ensure Compliancy of all.

### **Such study shall include,**

But not be limited to, an examination of state statutes applicable to an action involving the due process rights and Equal Protection of law and liberties interest of services to the disabled community using services of the ways congress intended on a protected Class of citizens of Conn. Such study may include recommendations for legislation on matters studied by the task force.

### **(b) The task force shall consist of the following members:**

**(1)** One appointed by the speaker of the House of Representatives, who shall be a practicing attorney with significant experience in the Civil Rights of Disability Mattes and Peoples with matters in state courts due process rights and Equal Protection of law and liberties interest;

**(c)** One appointed by the president pro tempore of the Senate, who shall be a practicing Attorney with not less than ten years' experience serving:

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**(3)** One appointed by the majority leader of the House of Representatives, who shall be a licensed mental health professional with expertise in Disability with evaluations of or a licensed mental health professional with expertise working with Disabled Communities’;

**(4)** One appointed by the majority leader of the Senate, who shall be an employee of the Advocated for the disabled or Within Support Services Disabled Communities’ due process rights and Equal Protection of law and liberties interest

**(5)** One appointed by the minority leader of the House of Representatives, who shall be a mental health professional with expertise in working with Disabled family with in the system of services to;

**(6)** One appointed by the minority leader of the Senate, who shall have personal or Professional experience in matters involving allegations of Discrimination on to a disabled Communities, engaging in a persistent pattern of denigrating, negatively influence in the due process rights and Equal Protection of law and liberties interest of life for/or to the disabled community or by association of perception of been disabled.

**(7)** Two jointly appointed by the chairpersons of the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary, one of whom shall be a member of said joint standing committee, and one of whom shall be a practicing attorney with significant experience in the ethical obligations involving ADA Title I, Title II and Title III with the due process rights and Equal Protection of law and liberties interest

**(8)** Two jointly appointed by the chairpersons of the joint standing committee of the General Assembly having cognizance of matters relating to Disabled children, one of whom shall be a member of said joint standing committee.

**(c)** Any member of the task force appointed under subdivisions **(1)** to **(8)**, inclusive, of Subsection **(b)** of this section may be a member of the General Assembly.

**(d)** All appointments to the task force shall be made not later than thirty days after the Effective date of this section. Any vacancy shall be filled by the appointing authority.

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(e) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the task force from among the members of the task force.

Such chairpersons shall schedule the first meeting of the task force, which shall be held not later than forty-five days after the effective date of this section.

(f) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary shall serve as administrative staff of the task force.

(g) Not later than **February 1, 2016**, the task force shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having Cognizance of matters relating to the judiciary, in accordance with the provisions of section **11-4a** of the general statutes. The task force shall terminate on the date that it submits such report or **February 1, 2016**, whichever is later.

**Approved July 12, 2015**

## **Settlement Agreement to be review but not limit too:**

THE UNITED STATES OF AMERICA AND QUINNIPIAC UNIVERSITY UNDER  
THE AMERICANS WITH DISABILITIES ACT 12/29/14

United States Department of Justice and the Connecticut Judicial Branch,  
November 2003

Raymond v. Rowland Civil Action NO. 3:03CV0118 (MRK) May 31, 2007

THE UNITED STATES OF AMERICA AND HOSPITAL FOR SPECIAL CARE,  
NEW BRITAIN, CONNECTICUT UNDER THE AMERICANS WITH  
DISABILITIES ACT DJ # 202-14-147

THE UNITED STATES OF AMERICA AND THE CITY OF NEW HAVEN,  
CONNECTICUT Department of Justice Complaint Nos. 204-14-143/204-14-144

THE UNITED STATES AND THE LEARNING CLINIC DJ # 202-14-133

The United States of America and Silver Hill Hospital, for Complaint DJ# 202-  
14-44

Connecticut Early Learning Center to Ensure Equal Opportunity for Children with  
Autism June 28, 2011

Connecticut Office of Protection and Advocacy v. State of Connecticut – 3:06-  
CV-179 – (D. Conn. 2006)

THE UNITED STATES OF AMERICA AND THE CITY OF ANSONIA,  
CONNECTICUT

DEPARTMENT OF JUSTICE COMPLAINT NUMBER 204-14-150

THE UNITED STATES OF AMERICA AND TOWN OF ROCKY HILL,  
CONNECTICUT UNDER THE AMERICANS WITH DISABILITIES ACT DJ # 202-  
14-117

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THE UNITED STATES OF AMERICA, MICHELLE DUPREY, THE CITY OF HARTFORD, CONNECTICUT INNOVATIONS, INC., AEG MANAGEMENT CT LLC, NORTHLAND TRUMBULL BLOCK LLC, NORTHLAND TOWER BLOCK LLC, AND THE UNIVERSITY OF CONNECTICUT UNDER THE AMERICANS WITH DISABILITIES ACT DJ# 202-14-105

THE UNITED STATES OF AMERICA AND CROWN THEATERS  
DEPARTMENT OF JUSTICE COMPLAINT NUMBER 202-14-34  
THE UNITED STATES OF AMERICA AND HARTFORD, CONNECTICUT  
UNDER THE AMERICANS WITH DISABILITIES ACT DJ 204-14-130

THE UNITED STATES OF AMERICA AND THE TOWN OF WINDHAM,  
CONNECTICUT DEPARTMENT OF JUSTICE COMPLAINT NUMBER 204-14-108

THE UNITED STATES OF AMERICA AND THE TOWN OF POMFRET,  
CONNECTICUT, UNDER THE AMERICANS WITH DISABILITIES ACT DJ 204-14-135

UNITED STATES OF AMERICA, Plaintiff-Intervener, v. MIDDLESEX MEMORIAL HOSPITAL, et al., No. 395-CV-02408 (AHN)

1994 class action *Messier v. Southbury Training School (STS)*.

U.S. District Court on July 12, 2010 As a result of the Order approving the *Messier Settlement Agreement*, the DDS affirms the commitment that professional judgment will be rendered by each interdisciplinary team at STS for each class member, and will include recommendations for the “most integrated setting” appropriate to the individual’s needs. For purposes of the Agreement, the “most integrated setting” is defined as “a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.” 28C.F.R. pt. 35 app. A at page 571 (2009); *Olmstead*, 527 U.S. at 592.

U.S. District Court Approves Settlement; Individuals With Mental Illness To Live In Community-Based Residences With Support

Hartford, CT, July 2, 2014 – Approximately 130 people with mental illnesses currently housed in two nursing homes in Connecticut will be able to live in community residences and receive appropriate support services under a settlement approved today by a federal judge. Approval of the agreement was obtained by the Connecticut Office of Protection and Advocacy for Persons with Disabilities (OPA), supported by the Judge David L. Bazelon Center for Mental Health Law, and the law firm Stroock & Stroock & Lavan LLP.

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U.S. District Court Judge Alvin W. Thompson approved the agreement, which resolves a lawsuit OPA filed seeking to require the State of Connecticut to meet its obligation under the Americans with Disabilities Act and the U.S. Supreme Court's Olmstead decision to provide housing for people with mental illness in the most integrated setting with appropriate supports, rather than in nursing homes.